

B177

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

RICHARD SUNSERI
MATTHEW DURBIN

Criminal No. 21-405
(18 U.S.C. §§ 371 and 1001(a)(3))
[UNDER SEAL]

FILED

SEP 21 2021

INDICTMENT

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

INTRODUCTION

1. The United States Department of Housing and Urban Development's ("HUD") Single Family Property Disposition Program allows individuals to purchase a home from HUD. These homes are owned by HUD after a Federal Housing Administration ("FHA") loan forecloses.

2. As part of the Single Family Property Disposition Program, the home is first available to owner-occupant buyers, meaning that HUD first accepts bids from individuals who intend to purchase the home as an owner-occupant, who will live in the house for at least one year.

3. If the home does not sell to an owner-occupant buyer, then (and only then), will it be made available to any other buyer, including investors.

4. The defendants, RICHARD SUNSERI and MATTHEW DURBIN, are licensed real estate agents and real estate investors.

COUNT ONE

The grand jury charges:

THE CONSPIRACY AND ITS OBJECTS

5. From in and around August 2016, and continuing thereafter until in and around December 2017, in the Western District of Pennsylvania, the defendants, RICHARD SUNSERI and MATTHEW DURBIN, knowingly and willfully did conspire, combine, confederate and agree together and with each other, to defraud the Department of Housing and Urban Development, an agency of the executive branch of the United States.

MANNER AND MEANS OF THE CONSPIRACY

6. It was a part of the conspiracy that MATTHEW DURBIN, as the buyer, and RICHARD SUNSERI, as the buyer's agent, entered into a sales contract with the United States Department of Housing and Urban Development ("HUD") to purchase the foreclosed property at 5606 Villahaven Drive, Pittsburgh, PA 15236.

7. It was further a part of the conspiracy that MATTHEW DURBIN and RICHARD SUNSERI made certifications representing that MATTHEW DURBIN was purchasing the home at 5606 Villahaven Drive, Pittsburgh, PA 15236 as an owner/occupant and representing that MATTHEW DURBIN would occupy the property as his primary residence for at least twelve (12) months when, as MATTHEW DURBIN and RICHARD SUNSERI well knew, each of said representations falsified the material facts that MATTHEW DURBIN was not purchasing the home as an owner/occupant and MATTHEW DURBIN would not occupy the home for at least twelve (12) months and was, instead, purchasing the home as an investor.

8. It was further a part of the conspiracy that by falsely certifying that MATTHEW DURBIN was purchasing the home at 5606 Villahaven Drive, Pittsburgh, PA 15236

as an owner/occupant, MATTHEW DURBIN and RICHARD SUNSERI were able to bid on the property before any other real estate investor under the applicable HUD program, thereby interfering with HUD and its lawful functions through their deceit and dishonest means.

9. It was further a part of the conspiracy that MATTHEW DURBIN and RICHARD SUNSERI financed and/or made payments toward the renovation of the property at 5606 Villahaven Drive, Pittsburgh, PA 15236 and, following the completion of the renovation and/or certain improvements and repairs, sold it less than twelve (12) months after MATTHEW DURBIN purchased the home.

10. It was further a part of the conspiracy that RICHARD SUNSERI, as the buyer, and MATTHEW DURBIN, as the buyer's agent, entered into a sales contract with the United States Department of Housing and Urban Development ("HUD") to purchase the foreclosed property at 1670 New Haven Avenue, Pittsburgh, PA 15216.

11. It was further a part of the conspiracy that RICHARD SUNSERI and MATTHEW DURBIN made certifications representing that RICHARD SUNSERI was purchasing the home as an owner/occupant and representing that RICHARD SUNSERI would occupy the property as his primary residence for at least twelve (12) months when, as RICHARD SUNSERI and MATTHEW DURBIN well knew, each of said representations falsified the material facts that RICHARD SUNSERI was not purchasing the home as an owner/occupant and RICHARD SUNSERI would not occupy the home for at least twelve (12) months and was, instead, purchasing the home as an investor.

12. It was further a part of the conspiracy that by falsely certifying that RICHARD SUNSERI was purchasing the home as an owner/occupant, RICHARD SUNSERI and MATTHEW DURBIN were able to bid on the property before any other real estate investor under

the applicable HUD program, thereby interfering with HUD and its lawful functions through their deceit and dishonest means.

13. It was further a part of the conspiracy that RICHARD SUNSERI and MATTHEW DURBIN financed and/or made payments toward the renovation of the property at 1670 New Haven Avenue, Pittsburgh, PA 15216 and, following the completion of the renovation and/or certain improvements and repairs, sold the property less than twelve (12) months after RICHARD SUNSERI purchased the home.

14. It was further a part of the conspiracy that RICHARD SUNSERI and MATTHEW DURBIN split certain proceeds and/or commissions related to the sale of the property at 1670 New Haven Avenue, Pittsburgh, PA 15216.

OVERT ACTS

15. In furtherance of the conspiracy, and to effect the objects of the conspiracy, the defendants, RICHARD SUNSERI and MATTHEW DURBIN, did commit and cause to be committed, the following overt acts, among others, in the Western District of Pennsylvania:

a) On or about August 16, 2016, MATTHEW DURBIN signed a sales contract with HUD, certifying that he was an "owner-occupant" who intended to occupy the property at 5606 Villahaven Drive, Pittsburgh, PA 15236 as his primary residence and signed the document certifying the same.

b) On or about August 16, 2016, RICHARD SUNSERI, as MATTHEW DURBIN's agent, certified that the information contained within the sales contract for the property at 5606 Villahaven Drive, Pittsburgh, PA 15236 was true and accurate and that he, RICHARD SUNSERI, was not knowingly submitting the sales contract for the property at 5606 Villahaven Drive, Pittsburgh, PA 15236 on behalf of an investor purchaser.

c) On or about September 26, 2016, MATTHEW DURBIN obtained an interest-only loan at a rate of 15% interest from M&M RE Holdings to purchase the foreclosed property at 5606 Villahaven Drive, Pittsburgh, PA 15236. The loan stated that it was for business purposes only.

d) On or about September 26, 2016, RICHARD SUNSERI placed a personal guaranty on MATTHEW DURBIN's loan to purchase the foreclosed property at 5606 Villahaven Drive, Pittsburgh, PA 15236.

e) On or about March 17, 2017, MATTHEW DURBIN sold the property at 5606 Villahaven Drive, Pittsburgh, PA 15236, for \$200,000.00 with RICHARD SUNSERI as the agent, less than twelve (12) months after purchasing it for \$113,000.00.

f) On or about May 1, 2017, RICHARD SUNSERI signed a sales contract with HUD, certifying that he was an "owner-occupant" who intended to occupy the property at 1670 New Haven Avenue, Pittsburgh, PA 15216 as his primary residence and signed the document certifying the same.

g) On or about May 1, 2017, MATTHEW DURBIN, as RICHARD SUNSERI's agent, certified that the information contained within the sales contract for the property at 1670 New Haven Avenue, Pittsburgh, PA 15216 was true and accurate and that he, MATTHEW DURBIN, was not knowingly submitting the sales contract for the property at 1670 New Haven Avenue, Pittsburgh, PA 15216 on behalf of an investor purchaser.

h) On or about June 16, 2017, RICHARD SUNSERI obtained an interest-only loan at a rate of 15% interest from M&M RE Holdings to purchase the foreclosed property at 1670 New Haven Avenue, Pittsburgh, PA 15216. The loan stated that it was for business purposes only.

i) On or about June 16, 2017, MATTHEW DURBIN placed a personal guaranty on SUNSERI's loan to purchase the foreclosed property at 1670 New Haven Avenue, Pittsburgh, PA 15216.

j) On or about December 22, 2017, RICHARD SUNSERI sold the property at 1670 New Haven Avenue, Pittsburgh, PA 15216, for \$235,000.00, less than twelve (12) months after purchasing it for \$99,000.00.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

The grand jury further charges:

On or about May 1, 2017, in the Western District of Pennsylvania, the defendant, RICHARD SUNSERI, in a matter within the jurisdiction of the executive branch of the Government of the United States, did knowingly and willfully make and use a false writing and document knowing the same to contain a materially false, fictitious and fraudulent statement and entry, that is, the defendant, RICHARD SUNSERI, stated and represented in a sales contract with the United States Department of Housing and Urban Development that he was purchasing the property located at 1670 New Haven Avenue, Pittsburgh, PA 15216 as an owner-occupant to occupy the home as his primary residence, whereas in truth and fact, as the defendant, RICHARD SUNSERI, well knew, this representation falsified the material fact that he was not purchasing the home as an owner-occupant, and was, instead, purchasing the home as an investor.

In violation of Title 18, United States Code, Section 1001(a)(3).

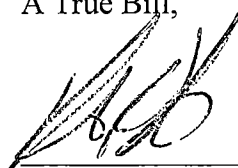
COUNT THREE

The grand jury further charges:

On or about August 16, 2016, in the Western District of Pennsylvania, the defendant, MATTHEW DURBIN, in a matter within the jurisdiction of the executive branch of the Government of the United States, did knowingly and willfully make and use a false writing and document knowing the same to contain a materially false, fictitious and fraudulent statement and entry, that is, the defendant, MATTHEW DURBIN, stated and represented in a sales contract with the United States Department of Housing and Urban Development that he was purchasing the property located at 5606 Villahaven Drive, Pittsburgh, PA 15236 as an owner-occupant to occupy the home as his primary residence, whereas in truth and fact, as the defendant, MATTHEW DURBIN, well knew, this representation falsified the material fact that he was not purchasing the home as an owner-occupant, and was, instead, purchasing the home as an investor.

In violation of Title 18, United States Code, Section 1001(a)(3).

A True Bill,



Foreperson


STEPHEN R. KAUFMAN
Acting United States Attorney
PA ID No. 42108